

THE ENVIRONMENTAL DIMENSION AS A CONDITION FOR DETERMINING NEEDS IN PUBLIC PROCUREMENT ACCORDING TO THE LAW NUMBER 23-12



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Abstract:

The environmental dimension in public procurement is a transitional step in this field, as it is no longer limited to an administrative procedure, but has become an effective tool for achieving sustainable development. The Law 23-12 establishes strict environmental standards that include the selection of materials, techniques and methods of implementation, with the obligation to conduct an environmental impact assessment of projects, which begins at the stage of identifying the needs of the contracting authority. Despite the obstacles that may face its implementation, this mechanism contributes to achieving a balance between development requirements and environmental protection, which strengthens Algeria's position in adopting new projects that achieve sustainable development.

Key Words: public transactions , environment , law 23-12 ,determination of the needs , contracting authority .

ادراج البعد البيئي كشرط عند تحديد الحاجات في مجال الصفقات العمومية حسب القانون

رقم 12-23

ملخص:

يشكل إدماج البعد البيئي في الصفقات العمومية خطوة انتقالية في هذا المجال ، حيث لم يعد يقتصر على كونه إجراءً إدارياً، بل أصبح أداة فعالة لتحقيق التنمية المستدامة. ويعزز القانون 12-23 هذا التوجه من خلال فرض معايير بيئية صارمة تشمل اختيار المواد والتقنيات وطرق التنفيذ، مع إلزامية إجراء تقييم للأثر البيئي للمشاريع والتي تبدأ من خلال مرحلة تحديد حاجيات المصلحة المتعاقدة ورغم العقوبات التي قد تواجه تطبيقه، إلا

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أن هذه الآلية تساهم في تحقيق توازن بين متطلبات التنمية وحماية البيئة، مما يعزز مكانة الجزائر في تبني مشاريع جديدة تحقق التنمية المستدامة

الكلمات المفتاحية : الصفقات العمومية ، البيئة، القانون 23-12، تحديد الاحتياجات، السلطة المتعاقدة .

Résumé : L'intégration de la dimension environnementale dans les marchés publics est une étape importante dans ce domaine, car elle ne se limite plus à une procédure administrative, mais est devenue un outil efficace pour réaliser le développement soutenable. La loi numéro 23-12 conforte cette orientation en imposant des critères environnementaux stricts qui incluent le choix des matériels, des techniques et des méthodes de mise en œuvre, ainsi que l'obligation de réaliser une étude d'impact environnemental des projets, qui commence au niveau de l'identification des besoins du maître d'ouvrage. Malgré les obstacles auxquels peut se trouver confrontée son application, ce mécanisme contribue à la réalisation d'un équilibre entre les besoins de développement et la protection de l'environnement, ce qui renforce la position de l'Algérie dans l'adoption de nouveaux projets qui s'inscrivent dans une perspective de développement durable.

Mots-clés : Marchés publics, environnement, loi 23-12, détermination des besoins, autorité contractante



Introduction:

Public procurement is considered as one of the most important types of administrative contracts as it is the mean of spending public funds and achieving the state's development programmes and projects, and it must be subject to a legal system that regulates it. This domain has known several regulations in the form of orders and presidential decrees, but the latest amendment came in the form of a law, number 23-12 determining the general rules related to public procurement, as it aims to control public spending and is used as a mechanism that represents the general policy of the state, and in light of modern developments that affected various fields, we find that it has added new objectives to this law, which are related to the field of environment and sustainable development.

In this context, the environmental dimension in public procurement is an essential necessity to keep up with global changes, as Law 23-12 embodies the idea of public procurement from a method of implementing projects to a strategic tool for achieving sustainable development and protecting the environment.

These changes came as a consequence of Algeria's international commitments in the field of the environment, as well as evolving environmental awareness at the local level and the need to adapt to climate change and the need to minimise the consumption of natural resources.

These modifications are demonstrated by integrating environmental criteria into all stages of the contracting cycle from preparation to delivery, as well as making public procurement an effective mechanism for the realisation of environmental policies, and trying to adopt the idea of a green economy and green public procurement.

This study aims to analyse the legal framework governing the environmental dimension in Algerian public procurement in accordance with the provisions of Law 23-12, to outline the importance of including the environmental dimension at every stage of the preparation of public procurement and to emphasise the legal guarantees taken by the legislator to establish this environmental dimension in public transaction.

The problematic of this study is : what degree has Law 23-12 achieved the realisation of the integration of the environmental dimension with the public procurement process ?

To answer this problematic , a descriptive, analytical and comparative method was used, both by describing and analysing the legal and new articles and comparing their content with previous legal provisions



The research has been divided into two topics the first one is titled as the concept of determining needs in the domain of public procurement , and the second is The principle of respect for the environment in determining the needs of the contracting authority

THE FIRST TOPIC:

The concept of determining needs in the field of public procurement

By analysing the article 07 of Law No. 23-12 regulating public procurement¹ , we notice that it is formulated in a mandatory form, which means that the contracting authority must respect the content of this article when defining its needs, taking into account the public interest. which represents the main objective of public procurement: To fulfil the needs of society and provide public services, while preserving the environment and achieving the objectives of sustainable development.²

First requirement: Defining the Determination of Needs

Determining the needs is the first and essential step in concluding public transaction cause it directly affects the success of the projects and achieving the desired goals , for that it appears the importance of establishing clear and precise standard for identifying needs as a prerequisite for ensuring the effectiveness of public transactions. In this requirement we will defined the determination of needs and include its importance

First section: Definition of the Determination of Needs

Article 16 of Law Number 23-12 states that the contracting authority determines the needs to be satisfied in advance before any public procurement procedure is performed.³

The determination of public needs refers to the intention and planning by the contracting authority to execute a project by starting a preliminary study of the

¹ Article 07 , Law 23-12 dated 5 August 2023, establishing the general rules relating to public procurement, official journal number 51, issued on 6 August 2023, p. 06 .

² Salim Boulmogh , Chaguetmi Shiem, "The Role of the Needs Assessment Process in Protecting the Environment and Achieving Sustainable Development: An Analysis of Article 07 of Law 12-23 on Public Procurement Regulations," Russian Law Journal volume XII, number 02 ,2024, page 2844 .

³ Article 16, Law 23-12 dated 5 August 2023, establishing the general rules relating to public procurement, official journal number 51, issued on 6 August 2023, p. 07.



project and taking into consideration all aspects of it, especially the nature, characteristics and amount of the needs.¹

The identification of needs is the set of administrative procedures related to the type, functions and objective of the contract to be followed according to the conditions designed for reasonable and honest assessments before initiating the procedures for concluding the transaction, where the contracting interests have to follow a set of steps and procedures respecting the basic principles of concluding a public procurement.²

Second section: The importance of the needs determination phase

The process of identifying the needs to be satisfied by the contracting authority in the field of public procurement is the initial step through which the financial cover of a transaction is determined in addition to the choice of the method of concluding the transaction to be followed, The importance of this phase can be outlined in the following³:

- Make sure that there is a financial cover that guarantees the execution of the services that are the target of the procurment .
- To ensure that the principle of competition is established and public funds are preserved.
- Determine the appropriate contracting method and procedures.
- Ensuring economic effectiveness and avoiding the formalisation of the contract.
- Ensuring that there is coordination between central and decentralised state departments in the process of executing their projects and fulfilling public requests.

Second requirement: Stages of Identifying Needs

The determination of the needs in public transactions goes through several basic stages which will be highlighted through this requirement which are three phases .

¹ لغواطي محمد، بن جلول مصطفى، إشكالات تحديد الحاجات في الصفقات العمومية قراءة في أحكام المادة 27 من المرسوم الرئاسي 15-247 المتعلق بتنظيم الصفقات العمومية وتقويضات المرفق العام، مجلة الدراسات القانونية والسياسية، المجلد 06، العدد 02، جوان 2020، ص 204.

² لميز أمينة، مبدأ حرية المنافسة في مجال الصفقات العمومية، أطروحة دكتوراه، تخصص قانون عام، كلية الحقوق والعلوم السياسية، جامعة أحمد بوقرة بومرداس، السنة الجامعية 2020-2021، ص 48.

³ مغني منيرة، إبرام الصفقات العمومية وفق إجراء التفاوض في ضوء القانون 23-12، بدون رقم طبعة، دار النشر الجامعي الجديد، الجزائر، 2024، ص 73، 74.



First section: phase of gathering and analysing needs

This phase is based on the identification of the needs to be materialised on the reality in order to be able to identify them precisely, based on their nature and technical specifications, in accordance with the general principles of public procurement, and these specifications and conditions must not be directed to a specific product or economic operator¹

This is confirmed by the last paragraph of Article 16 of Law No. 23-12, which stipulates that: " ... during the preparation of determining the needs it must be based on the exact nature and extent of those needs and must be prepared on the basis of detailed technical specifications prepared on the basis of standards and/or efficiencies to be achieved or functional requirements. These technical specifications must not be directed towards a specific product or economic operator."²

After identifying the needs, the contracting authority analyses the identified processes and examines the options it can rely on to satisfy the needs, taking into account the objectives it hopes to achieve and possible obstacles, as well as the quantities, specifications and financial framework dedicated to them.³

Second section : phase of the Preparation of previous studies

Preliminary studies are required to be undertaken to assess the effectiveness and appropriateness of each project, using available human, technical and consultancy resources. This ensures a balance between development and meeting needs while protecting the environment and conserving resources.⁴

It means all studies and regulations that will help the contracting authority in taking the final decision to execute the project in a procedurally, technically and artistically correct way, so the studies takes sufficient time to prepare plans, charts and technical specifications related to the subject of the deal.⁵

This stage takes the following steps:

1- Project suitability study

¹لميز أمينة، المرجع السابق الذكر، ص 49.

²Article 16, Law 23-12, establishing the general rules on public procurement, page 07.

³ربيعي منال سامية، الصفقات العمومية في الجزائر بين واقع الفساد وحتمية الصرامة، أطروحة دكتوراه، قسم القانون العام، كلية الحقوق، جامعة الأخوة منتوري قسنطينة 1، السنة الجامعية 2023-2024، ص 48، 49.

⁴Salim Boulmoukh , Chaguetmi Shiem , op-cit , p 2849.

⁵ربيعي منال سامية، المرجع السابق الذكر، ص 49.



The suitability study focuses on the value of the project, its economic and social relevance, in addition to the cost allocated to it and the economic benefits achieved through it, the study of the estimated financial and material outcome of the project.¹

2- Registration of the project in the list of executable projects

After completing the previous stage, the project is registered in the list of achievable projects and the file is studied by the competent minister, the officials of the institutions, the public authority, the governor or the head of the municipal people's council.²

Third section : Verification of the existence of the financial appropriation

In order to properly execute the public transaction, the contracting authorities must ensure that there is sufficient financial appropriation to cover the expenses, and this appropriation is a specific budget allocation, which is an authorisation for financial spending determined by the competent administrative authority within the limits of its legal authority.³

THE SECOND TOPIC:

The principle of respect for the environment in determining the needs of the contracting authority

In the context of protecting the environment and achieving sustainable development, Article 04 of Law No. 03- 10 defines the environment as including all living and non-living natural resources, consisting of non-living elements such as air, water, soil and subsoil, and living elements such as plants, animals and genetic heritage, along with their mutual interactions, in addition to landscapes and natural features. In the same article, has provided a definition of the ecosystem , considering it as a dynamic set consisting of living organisms (plants, animals and microorganisms) and the surrounding non-living environment, which interact together to form an integrated ecological unit to achieve natural balance.⁴

¹لميز أمينة، المرجع السابق الذكر، ص 54.

²See the article 10, law number 23-12 establishing the general rules on public procurement, p. 06.

³خضري حمزة، آليات حماية المال العام في إطار الصفقات العمومية، أطروحة دكتوراه، تخصص قانون عام، كلية الحقوق، جامعة الجزائر 1، 2014-2015، ص 60.

⁴Article 4 , Law 03-10 dated 19 July 2003, relating to the protection of the environment in the framework of sustainable development, Official Gazette No. 43, issued on 20/07/2003, p. 10.



First requirement : The relationship between the principle of respect for the environment and public procurement law

Legal guarantees to protect the environment and achieve sustainable development in public procurement in Algeria are based on including environmental standards at all phases of the public transaction , from needs assessment to execution. This includes providing control and punishment mechanisms to ensure adherence to these standards, which can only be achieved by complying with all the procedures that frame the needs assessment process.¹

First section: Environmental considerations in the preparatory phase of the public procurement process

The preparatory phase of the public procurement process refers to all the measures taken to facilitate and prepare the procurement process in order to satisfy public needs to the maximum extent possible through the reasonable and wise use of available resources, through proper planning and management, without damaging any side or interest.²

1. Consideration of the environmental dimension in determining the needs of the contracting authority

The determination of needs is the first phase performed by the contracting authority in preparing the public deal and before beginning the contracting process, where it prepares a technical card that explains the different needs according to their nature in a technical manner and figures expressing the quantity of works, goods and services, as well as an estimated amount for them³

Thus, this phase represents the degree of the control of the contracting authority in its domain of activity and confirming whether it is working according to a specific strategy to achieve and develop public facilities to achieve the public interest. It must take into consideration the environmental aspect of the contract by listing all its requirements expected from the contract by protecting the environment and the project's impact on it and trying to minimise the side effects on the environment by choosing environmentally friendly materials and encouraging by giving additional points in the technical evaluation of the offers.⁴

¹ Salim Boulmouk, Chaguetmi Shiem , op-cit , page 2848 .

² سمير شوقي، سهام بن دعاس، إدراج البعد البيئي في الصفقات العمومية كأساس لتحقيق التنمية المستدامة، مجلة جامعة الأمير عبد القادر للعلوم الإسلامية، المجلد 34، العدد 03، سنة 2020، ص 1342.

³ - بللملاني يوسف، البعد البيئي في مجال الصفقات العمومية، أطروحة دكتوراه، كلية الحقوق والعلوم السياسية، جامعة وهران 2 محمد بن أحمد، سنة الجامعية 2019-2020، ص 69.

⁴ Ibid , p 79, 80.



2. Consideration of the environmental aspect in the preparation of the books of conditions

Condition books are considered as a type of administrative contract, since they are the basis for the establishment of a public transaction, which is a set of documents of a regulatory nature issued by the contracting authority and in which the contracting authority has appeared with such authority against the other contracting party that it becomes a contract of adhesion.¹

Therefore, an environmental term book is defined as an official document drawn up by the contracting authority on its own will, setting out all the environmental needs to be achieved through the contract, the method of selecting the contracting operator and the conditions that must be available for participation.²

Article 15 of Presidential Decree number 15-247 establishes, in its second paragraph, the need to include supplementary information in public procurement documents, stating that the items related to environmental protection and sustainable development need to be included in these information³, this is matched by Article 72 of Law 23-12.

The Algerian legislator did not include the environment in the obligatory information, but instead left its inclusion depending on the nature of the transaction to be conducted.

Consequently, the conditions book contains several clauses established by the contracting party, through which it expresses the needs to be fulfilled in the execution of the transaction, in addition to including the environmental dimension in it, especially construction transactions, which are defined in Article 25 of Law 23-12, which indicates that the construction transaction aims to complete a facility, construction or civil engineering works and various types of systems by an economic operator while respecting the needs identified by the contracting party as the project owner, in addition to considering that a construction project is a set of construction or civil engineering works that fulfil an economic or technical function as a result of it.⁴

Article 15 of Law number 03-10, which states that there must be an environmental impact study for development projects, structures, fixed establishments, factories, other technical activities and all works and programmes

¹ مخنفر محمد، عقود الصفقات العمومية ودورها في حماية البيئة، الطبعة الأولى، بيت الأفكار، الجزائر، 2024، ص 49.
² بللملياني يوسف، دفتر الشروط كوسيلة لتكريس البعد البيئي في مجال الصفقات العمومية، دفا تر السياسة والقانون، المجلد 12، العدد 01، 2020، ص 438.

³ Article 15 of Presidential Decree number 15-247 dated 16/09/2015, regulating public procurement and public utility delegations, official gazette Number 50, issued on 20 September 2015, p. 26.

⁴ Article 25, Law 23-12 establishing general rules on public procurement, p. 08.



related to construction and development that directly or indirectly affect the environment, demonstrates the relation between the works deal and the environment.¹

We also find the technical conditions book for the deal, which contains conditions related to the control of materials and their usefulness for use and conditions related to the performance of the contract. As the environment is related to several technical issues related to the technology being used, the technical conditions book specifies them, such as the condition of not making noise, using renewable energies, using materials that do not damage the ozone layer, water, air, or dust.² In addition, there are environmental repair clauses, especially the condition that the contractors are required to restore the state of the environment on completion of the works in order to protect the environment.³

Second section: Consideration of environmental aspects at the phase of concluding and executing the public transaction

Adherence to environmental standards is a prerequisite in public transaction contracts. Modern legislation requires that the environmental dimension be taken into account at all stages of the contract and in this section we will highlight the environmental dimension in concluding and executing the public transaction .

1. Including the environmental dimension in the qualification of candidates for the public transaction

The involvement of the environmental dimension at this phase means that the contracting authority must verify the financial, technical and professional capacities of the candidates in addition to confirming the existence of environmental protection considerations, as it demands the existence of prevention, and acting before the environmental damage occurs, in addition to the environmental protection needs material, human and technical capabilities, for example, if the subject of the transaction is the management of domestic waste in this case it requires financial, human and technical supplies, so the contracting authority is obliged to verify all the information described by the candidate for the public transaction.⁴

2. Including the environmental dimension in the selection of the contracting party in the public procurement procedure

The selection criteria of contracting parties are based on their ability to accomplish the environmental transaction by providing the best environmental offer. The contracting authority examines the technical and financial standards of the

¹Article 15, Law 03-10 relating to the Environment and Sustainable Development , p 11.

²بلملياني يوسف، المرجع السابق الذكر، ص 444.

³Ibid , p445.

⁴مخنفر محمد، المرجع السابق الذكر، ص 62، 63



contractors and their professional capabilities in relation to the environmental transaction to be concluded.¹

The contracting authority can establish a minimum set of technical capabilities that candidates for a public transaction must consider, such as the possession of a quality or environmental performance certificate by a contractor for an environmental transaction.²

3. Environmental considerations in the execution phase of a public transaction

The process of determining the implementation conditions included in the term sheet is obligatory for both parties. The contracting party is obliged to execute the transaction according to these conditions, while the contracting authority is responsible for controlling the proper application of these conditions and has the power to modify the conditions if necessary to protect the environment, whether in terms of the quality of the agreed objects, the duration of execution, the methods of execution with the condition that it does not lead to the modification of the subject matter of the contract.³

Second requirement: Guarantees to achieve the environmental dimension in the public procurement field

The environmental qualification criteria for operators confirms the need to integrate economic competence and environmental responsibility in the field of public transactions. These standards include obtaining certified environmental accreditations and using green technologies that minimise negative impacts on the environment. It also requires a careful assessment of their ability to manage natural resources efficiently and take into account the environmental dimension at all stages of the project. Strict penalties are imposed if they do not comply with these standards, including being banned from participating in future tenders. This reflects the legislator's interest in achieving sustainable development by integrating environmental considerations into all government procurement processes.⁴

First section : Preliminary guarantees

Initial guarantees are a central element of the contracting process, balancing the contracting parties' interests. It acts as a preventive mechanism against any default or breach of agreed obligations and ensures the functioning of the work in accordance

¹ بللملاني يوسف، البعد البيئي في مجال الصفقات العمومية، المرجع السابق الذكر، ص 197.

² Ibid , page 199.

³ سمير شوقي، سهام بن دعاس، المرجع السابق الذكر، ص 1350.

⁴ soulimen Kankara, mohammed Ben Abbou, hassen Ben Abdelkadir, The necessity of sustainable urban environmental balance and its relationship with ensuring governance in the field of public procurement. Russian Law Journal, volume XI, number 05 , 2023, page 3018 , 3019 .



with the specified specifications. This ensures that the desired results are achieved efficiently and effectively.

1- Administrative Licences

Administrative licences are considered one of the most important means of achieving preliminary protection before any negative impact on the environment, especially as they relate to important projects that may cause a risk to the environment, especially large industrial projects and construction activities that lead to the consumption of natural resources and affect the biodiversity of the environment.¹

A licence is defined as a decision taken by the competent administration to allow a person to receive the permission stated in the licence, and the administration awards the licence if the necessary conditions specified by law are complied within the framework of the licence.²

2- Report

The report is a new method established in the Algerian legislation as part of the practice of exercising consequential and continuous control over the granting of a licence, in which a periodic report is presented on the activities practiced so that the competent administrative authority can impose its post-licence control.³

Although the Algerian legislator did not mention the method of reporting in Law 03-10, however, certain laws related to the environment has already mentioned, including article 21 from law No. 01-19 on the management, control and elimination of waste.⁴

3- Prohibition and obligation

Prohibition and obligation are considered as legal means established by the Algerian legislator. Prohibition is a legal mean applied by the administration through administrative decisions and is intended to prevent the practice of certain behaviours due to the risk that results from their practice. Therefore, the legislator uses the prohibition of certain acts, activities or behaviours that are damaging the

¹ هاجر مايدي، علي مراح، القيود الواردة على الاستثمار في إطار التنمية المستدامة والأمن البيئي، المجلة الجزائرية للعلوم القانونية، السياسية والاقتصادية، المجلد 56، العدد 02، سنة 2019، ص 335.

² صبرينة حمود، إدراج البعد البيئي في قانون الاستثمار، مجلة الدراسات والبحوث القانونية، المجلد 8، العدد 1، 2023، ص 185.

³ هاجر مايدي، علي مراح، المرجع السابق الذكر، ص 337.

⁴ Article 21, Law 01-19 dated 12 December 2001, relating to the management, control and elimination of waste, official gazette Number 77, issued on 15 December 2001, p. 13.



environment in order to achieve the general interest of society according to the danger that they pose to the environment.¹

Obligation is a method used by the legislator, which obliges the operator to take a certain positive action to prevent from polluting or protecting the environment, or to oblige those who have caused by a mistake to pollute the environment to repair the situation, Obligation is the opposite of prohibition, as the latter is the prohibition of a certain activity, while obligation is the necessity to perform a certain behaviour, which is a positive action.²

4- Development of an environmental impact study

The environmental project impact study is a preliminary study that comes before the project of the public transaction in order to evaluate it and identify the direct and indirect impact on the environment that the completion of the transaction may cause, and this study is subject to a public investigation that leads to a decision by the Ministry of Environment that either approves or rejects the completion of the project.³

Second section : Regulatory safeguards

Regulatory safeguards are a preventive mechanism governing the conduct of public transactions, harmonizing standards and procedures among all parties. It demonstrates its importance in providing legal protection and contributes to the protection of public funds through effective oversight mechanisms. This makes it an essential pillar for the public interest and ensuring optimal use of resources.

1- Supervision of public procurement committees

Article 94 of Law No. 23-12 stipulates that the control of public procurement concluded by the contracting authority is organised in three forms: Internal control, external control and supervisory control'.⁴

We find that the Algerian legislator has devoted Articles 96 to 103 to clarify the types of control exercised over public procurement in Law 23-12, whether in the form of internal control represented by the Committee of Opening Tenders and Evaluating Offers or through external control exercised by the Public Procurement Committee, which is a preliminary control whose purpose is to verify the validity and conformity of the public transaction with the legislation and regulations, as

¹ بللملاني يوسف، البعد البيئي في مجال الصفقات العمومية، المرجع السابق الذكر، ص 183.

² المرجع نفسه، ص 190.

³ حورية جاري، حماية البيئة في إطار الصفقات العمومية، مجلة البحوث العلمية في التشريعات البيئية، المجلد 5، العدد 2، 2015، ص 29,30.

⁴ Article 94, Law 23-12 establishing general rules on public procurement, page 16.



well as the control of the custodianship which aims to verify that the transactions concluded by the contracting authority conform to the framework of the programmes and priorities set for the sector.¹

Accordingly, if one of the previous committees finds that the rules for concluding public deals have been violated and that environmental considerations have not been respected and have caused damage to them, the committee refuses to sign, which is a mandatory procedure for the transaction concluded to obtain the effects of other financial bodies and to obtain authorisation to enter into force.²

2- Authority to supervise, guide and control the execution of public transactions

The supervisory authority means that the administration verifies that the contractor performs its contractual obligations according to the contract, while the control is represented by intervening in the process of implementing the contract, directing the work and choosing the appropriate ways to implement it within the framework of the conditions specified in the contract, especially those related to the safety and protection of the environment.³

3- The power to enforce administrative punishments

The contracting authority has the right to impose administrative sanctions, which may include financial penalties, if the contractor breaks, neglects or fails to fulfil its contractual obligations, especially those related to the protection of the environment⁴ in line with Article 84 of Law 23-12 or invalid penalties in line with Article 90 of the same law⁵. It also has the power to impose non-financial penalties or pressure penalties such as including the name of the contracting party in the list of those excluded from participating in the public transaction⁶.

¹Articles from 96 to 103, Law Number 23-12, defining the general rules of public procurement, pp. 16, 17.

²سمير شوقي، بن دعاس سهام، المرجع السابق الذكر، ص 1353.

³المرجع نفسه، ص 1354.

⁴بوزيدي خالد، إدماج البعد البيئي في مجال الصفقات العمومية بين متطلبات تحقيق التنمية المستدامة وحماية البيئة، مجلة الأستاذ الباحث للدراسات القانونية والسياسية، المجلد 04، العدد 02، سنة 2019، ص 427.

⁵For more details, see Articles 84 and 90 of Law 23-12 establishing the general rules on public procurement, page 15.

⁶بوزيدي خالد، المرجع السابق الذكر، ص 428.



Conclusion:

The inclusion of the environmental dimension in public transactions is an important step towards sustainable development, combining the requirements of economic growth with the imperatives of environmental conservation , anf from the study above we conclude :

- the law number 23-12 has mention the environmental dimension in general .
- The principle of respect for the environment is a legal limit for the contracting authority in determining its needs
- The inclusion of the environmental dimension appears at all stages of the deal preparation
- Algerian legislation has established a number of legal safeguards that contribute to the realization of the principle of respect for the environment in the field of public transactions.

Finally, the following recommendations could be proposed:

- the neccisity of promulgating a specific regulation of Environmental dimension and sustainable development in public transactions
- The need to review the administrative terms books and incorporate the environmental dimension as well as the technical books must include contractual standards that protect the environment and achieve sustainable development
- Concessions must be granted to the operators who takes into account the environmental aspects when executing the transaction

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